

THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: ZOSTAVAX (ZOSTER  
VACCINE LIVE) PRODUCTS  
LIABILITY LITIGATION

CIVIL ACTION NO. 18-md-2848

THIS DOCUMENT RELATES TO:

ALL CASES

PRETRIAL ORDER NO. 426

AND NOW, this 30th day of March 2022, for the reasons stated in the foregoing Memorandum, it is hereby ORDERED that:

1. If a plaintiff and plaintiff's counsel conclude that good grounds exist to continue prosecuting the plaintiff's claim for a shingles-related injury as defined in Exhibit 1, then the plaintiff--in addition to all existing pre-trial disclosure obligations, including but not limited to discharging the plaintiff's obligation to serve timely, fully completed Plaintiff Fact Sheets with the necessary declaration and HIPAA-compliant authorizations--shall serve laboratory reports or other records documenting that strain-identification testing detected vaccine-strain varicella zoster virus ("VZV") in a rash sample from the plaintiff ("Laboratory Reports").

2. Plaintiffs whose cases were (a) filed initially in this court on or before the date of this order, (b) transferred to this court (i.e., docketed in this court pursuant to a transfer

order) on or before the date of this order or (c) pending as of the date of this order and transferred to this court following its entry shall serve their Laboratory Reports within 90 days of the entry of this order.

3. Each plaintiff whose case is filed initially in this court on or after the date of this order shall serve Laboratory Reports on or before the 90th day following the date the action is filed.

4. Each plaintiff whose case is commenced and transferred to this court after the entry of this order shall serve Laboratory Reports on or before the 90th day following the date on which the case is docketed in this court pursuant to the transfer order.

5. If any plaintiff is unable to comply with the foregoing deadlines after making reasonable efforts to do so, that plaintiff may apply to this court for an extension of the deadlines for good cause shown; provided, however, that any request for an extension must be made in writing and submitted to the court at least 15 days before the deadline for submission of the Laboratory Reports.

6. The Laboratory Reports described in Paragraph 1 shall be served electronically on Defendants' Liaison counsel at the following email address: ZostavaxMDL\_LabReports @Venable.com. Concurrent with service to Merck, plaintiffs shall serve the Laboratory Reports described in Paragraph 1 upon the Plaintiffs'

Executive Committee by sending an email to Virginia E. Anello at vanello@douglasandlondon.com. The Plaintiffs' Executive Committee as well as any duly authorized agents or designees of the Plaintiffs' Executive Committee shall be permitted to review any and all Laboratory Reports.

BY THE COURT:

/s/ Harvey Bartle III

J.

**Exhibit 1**

The following is a list of injuries that the parties agreed constituted eligibility in the Group A bellwether and discovery pool and shall constitute shingles-related injuries for the purposes of this Order:

- a) Herpes zoster (“shingles”);
- b) Herpes zoster oticus;
- c) Ramsay Hunt Syndrome;
- d) Herpes zoster ophthalmicus;
- e) Zoster sine herpete (“shingles without rash”);
- f) Herpes zoster encephalitis; and/or
- g) Herpes zoster meningitis.

The aforementioned injuries include any sequalae that may flow from the injury, including, but not limited to, postherpetic neuralgia and allodynia.